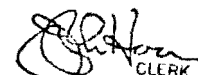


UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
SOUTHERN DIVISION

FILED

AUG 26 2011


CLERK

UNITED STATES OF AMERICA,

Plaintiff,

vs.

THOMAS R. KELLEY,

Defendant.

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CR 08-40173

ORDER

A Motion for Return of Property, Doc. 118, was filed by the Defendant Thomas R. Kelley with items 4 and 11 not being identified. Any documents filed should also be served upon the United States of America so that a response to the Motion can be submitted to the Court.

A separate Motion to Withdraw Stand-By Counsel, Doc. 119, was also filed by Defendant. A Notice of Appeal has been filed and appointment of counsel for the appeal will be determined by the Eighth Circuit Court of Appeals. Patrick Schroeder is now released from his duties and obligations as stand-by counsel.

Another Motion, Doc. 120, Defendant Kelley made requested that Mr. Kelley be incarcerated at the Federal Prison facility in Yankton, South Dakota. If there was to be such a request, it should have been made at the time of sentencing as the Bureau of Prisons makes designations shortly after sentencing and Mr. Kelley was designated to Sandstone Federal Correctional Institution in Sandstone, Minnesota. Given the failure to appear and the hiding from law enforcement by Mr. Kelley, the Court would not have recommended that Mr. Kelley's initial place of incarceration be at the Yankton, South Dakota, facility.

Accordingly,

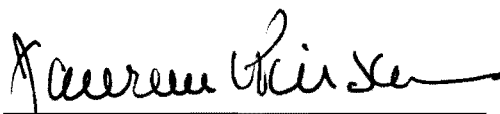
IT IS ORDERED:

1. That the Motion for Return of Property, Doc. 118, is taken under advisement.

2. That the Motion to Withdraw Stand-By Counsel, Doc. 119, is granted, and Attorney Patrick Schroeder is withdrawn as stand-by counsel.
3. That the Motion to Recommend Incarceration, Doc. 120, is denied.

Dated this 26th day of August, 2011.

BY THE COURT:



Lawrence L. Piersol
United States District Judge

ATTEST:
JOSEPH HAAS, CLERK

BY: Jackie Meisenheimer
DEPUTY